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land of a specified size at the time of cutting, together with a right of way across the land for the purpose of removing the timber, and providing that the purchaser should have five years in which to cut and remove the timber from the time they commenced manufacturing it into wood or lumber, but that they should not be limited as to the time within which they should commence the cutting or removal, did not give the purchaser a perpetual right to enter on the land and cut the timber, but merely a right to do so within a reasonable time.

[Ed. Note.—For other cases, see Logs and Logging, Cent. Dig. §§ 6-12; Dec. Dig. § 3.* 13 Va.-W. Va. Enc. Dig. 219.]

3. Contracts (§ 324*)—Validity.—Contracts which contravene no rule of law must be enforced by the courts.

[Ed. Note.—For other cases, see Contracts, Cent. Dig. §§ 1549-1557; Dec. Dig. § 324.* 3 Va.-W. Va. Enc. Dig. 419.]

4. Logs and Logging (§ 3*)—Sales of Standing Timber—Time for Removal.—Where a deed conveying standing timber provided that the purchaser should have 5 years to cut and remove the timber after commencing cutting, but should not be limited as to the time within which to commence, and the purchaser without protest from the seller delayed commencing for nearly 14 years, the seller is not prejudiced by a decree construing the deed as providing for a reasonable time only within which to commence cutting, and holding that one year after the termination of the action would be such reasonable time.

[Ed. Note.—For other cases, see Logs and Logging, Cent. Dig. §§ 6-12; Dec. Dig. § 3.* 13 Va.-W. Va. Enc. Dig. 219.]

Appeal from Circuit Court, Sussex County.

Action by R. A. Brown and another against the Surry Lumber Company. From the decree, plaintiffs appeal. Affirmed.

Geo. Mason and Chas. E. Plummer, for appellants.

Wm. B. McIlwaine, W. B. Cocke, and Davis & Davis, for appellee.

HERRELL, County Treasurer, *v.* BOARD OF SUP'RS OF PRINCE WILLIAM COUNTY.

June 13, 1912.

[75 S. E. 87.]

1. Attorney and Client (§ 71*)—Authority to Sue—Waiver of Objection.—An objection that an attorney, suing for a county board

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

of supervisors, was not authorized to sue, was waived by an allegation in defendant's answer that he waived any demurrer to the bill, answered the charge, and courted and demanded the fullest investigation of his official conduct, praying that the cause might be referred, with instructions to inquire into all his settlements.

[Ed. Note.—For other cases, see Attorney and Client, Cent. Dig. §§ 97-101; Dec. Dig. § 71.* 2 Va.-W. Va. Enc. Dig. 151.]

2. Attorney and Client (§ 103*)—Authority to Sue—Ratification.—Where, after an attorney had brought suit on behalf of a county board of supervisors to compel an accounting by the county treasurer, the board ratified the attorney's act and employed special counsel to assist in the prosecution thereof, the board's failure to expressly confer on the attorney original authority to sue was immaterial.

[Ed. Note.—For other cases, see Attorney and Client, Cent. Dig. § 154; Dec. Dig. § 103.* 2 Va.-W. Va. Enc. Dig. 151.]

3. Account (§ 20*)—Proceedings before Commissioner—Notice.—Where a commissioner to whom a suit for an accounting was submitted began the reference on February 6, 1908, "by consent of parties," and defendant and his counsel were present throughout the taking of testimony and participated in all the proceedings, he could not thereafter object that the account was taken without notice to him.

[Ed. Note.—For other cases, see Account, Cent. Dig. §§ 109-131; Dec. Dig. § 20.* 11 Va.-W. Va. Enc. Dig. 722.]

4. Account (§ 20*)—Proceedings before Commissioner.—Where a commissioner was appointed to take an account in a suit against a county treasurer for an accounting, the fact that the chancellor went over the calculations with the commissioner was not a proper ground for exception.

[Ed. Note.—For other cases, see Account, Cent. Dig. §§ 109-131; Dec. Dig. § 20.* 11 Va.-W. Va. Enc. Dig. 725.]

5. Limitation of Actions (§ 33*)—County Treasurer—Accounting.—A suit by a county board of supervisors against a county treasurer for an accounting, and to recover public moneys in his hands, is not subject to the three-year statute of limitations.

[Ed. Note.—For other cases, see Limitation of Actions, Cent. Dig. § 146-150; Dec. Dig. § 33.* 9 Va.-W. Va. Enc. Dig. 404.]

6. Limitation of Actions (§ 182*)—Time to Plead.—Where, in a suit against a county treasurer for an accounting, his answer joined in the prayer of the bill and specifically prayed for an inquiry into all settlements made by him from the time he became treasurer

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until the present, and he adhered to such position until after the evidence was closed, it was then too late for him to plead limitations.

[Ed. Note.—For other cases, see *Limitation of Actions*, Cent. Dig. §§ 676-682, 695, 705; Dec. Dig. § 182.* 9 Va.-W. Va. Enc. Dig. 446.]

Appeal from Circuit Court, Prince William County.

Suit by the Board of Supervisors of Prince William County against James E. Herrell, County Treasurer, for an accounting. Decree for complainant, and defendant appeals. Affirmed.

Thos. H. Lion and C. E. Nicol, for appellant.

Robt. A. Hutchinson and H. T. Davies, for appellee.

HOLLY v. COMMONWEALTH.

June 13, 1912.

[75 S. E. 88.]

1. Larceny (§ 30*)—Indictment—Sufficiency.—Under Code 1904, § 3994, which provides that in a prosecution for larceny of United States currency it shall be sufficient if accused be proved guilty of the larceny of national bank notes or any other form of money issued by the government, though the particular species be not proved, an indictment charging larceny of three notes of United States currency of the value of \$20 sufficiently charges grand larceny.

[Ed. Note.—For other cases, see *Larceny*, Cent. Dig. §§ 64-75, 99; Dec. Dig. § 30.* 9 Va.-W. Va. Enc. Dig. 226.]

2. Larceny (§ 40*)—Variance—Property Taken.—There was no material variance between an indictment charging larceny of three notes of United States currency of the value of \$20 and proof of the taking of one \$10 bill, one \$5 bill, five \$1 bills, and 65 cents in fractional coin.

[Ed. Note.—For other cases, see *Larceny*, Cent. Dig. §§ 102-126, 160; Dec. Dig. § 40.* 9 Va.-W. Va. Enc. Dig. 233.]

Error to Circuit Court, Tazewell County.

Hampton Holly was convicted of grand larceny, and he brings error. Affirmed.

Minter & Minter, for plaintiff in error.

Attorney General, Samuel W. Williams, for the Commonwealth.

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